

REMARKS

Applicants respectfully request reconsideration of the rejection of this application as examined pursuant to the office action of January 9, 2008. In the office action, Claims 1-5, 8-15, 28-30 and 32-41 were examined. Those claims remain pending.

Claims 1-5, 8-15, 28-30 and 32-41 were rejected in the pending office action under 35 USC § 103(a) as being unpatentable over the combination of published PCT application to Huff et al., WIPO Publication No. WO99/57625 ("Huff") and US published patent application Publication No. 2004/0215972 to Sung et al.

The 35 USC § 103(a) rejection

Claims 1-5, 8-15, 28-30 and 32-41 were rejected as being unpatentable over Huff in view of Sung. The Sung reference has been cited for the specific asserted purpose of allegedly teaching the use of intelligent agents selectively distributed among network nodes, but not all nodes. It was stated on page 2 of the office action that the 37 C.F. R. § 1.131 affidavits filed in the October 29, 2007, response to office action filed by the Applicants were ineffective to overcome the Sung reference. Specifically, it was stated that the affidavits did not specifically identify the elements of the claims with proper dated evidence including the claimed elements. Applicants' representative has discussed with the new examiner this evaluation of the filed affidavits and, based on that discussion, submits herewith supplemental affidavits from Richard Graham and Chris Caseiro, in which the elements included in the claims are identified with specificity in the dated evidence accompanying the affidavits.

The Sung Reference Should Be Withdrawn From Consideration

Applicants respectfully submit that the Sung reference should be withdrawn from consideration. The previously filed Declarations of co-inventors Richard Graham and Mark Townsend describe the Applicants' conception and diligent steps to reduce their invention to practice, which actions began prior to the filing date of the Sung reference. Specifically, the Applicants conceived the invention prior to the April 13, 2003, Sung application filing date. They worked diligently to produce the invention at least as of July 28, 2003. Graham's and Townsend's statements were fully supported by exhibits generated contemporaneously with the efforts to reduce the invention to practice.

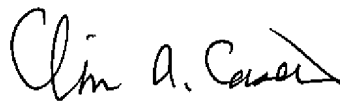
Applicants further submit herewith the second Declaration of Richard Graham to make clear that the previously submitted evidence specifically identifies the elements of the claims pending for examination. Additionally, the Declaration of Chris Caseiro submitted herewith is accompanied by evidence generated contemporaneously with the efforts to reduce the invention to practice specifically identifying an element of the invention as described by the pending claims. The accompanying declarations clearly identify the elements of the presently pending independent claims contained in the proper dated evidence previously submitted and submitted with the Declaration of Chris Caseiro.

In view of the accompany previously submitted Declarations of Richard Graham and Mark Townsend, the attachments to those Declarations, the accompanying second Declaration of Richard Graham, the accompanying Declaration of Chris Caseiro, and the attachment to the Caseiro Declaration, Applicants respectfully suggest that the Sung reference is inapplicable in the determination of the patentability of the present invention described in pending Claims 1-5, 8-15, 28-30 and 32-41. Withdrawal of the 35 USC § 103(a) rejection of the claims based on Huff in view of Sung is therefore requested.

CONCLUSION

In view of the remarks made herein and the accompanying declarations, Applicants respectfully suggest that the rejection under 35 § 103(a) have been successfully traversed. Allowance of pending Claims 1-5, 8-15, and 28-30 and 32-41 is therefore requested.

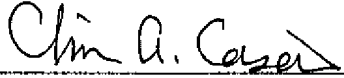
Respectfully submitted,



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Certificate of Transmission

I hereby certify that this correspondence is being transmitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, using the EFS-Web service of the US Patent Office on May 8, 2008. It is hereby requested that this communication be assigned a receipt date of May 8, 2008.



Chris A. Caseiro